



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, D.C. 20230

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

Re: *Ex Parte* Letter to Chairman Kennard in CC Docket Nos. 98-79, 98-103, 98-161,
and 98-165, Tariffing of Digital Subscriber Line Services

Dear Ms. Salas:

Pursuant to Section 1.1206(b)(1) of the Commission's rules, 47. C.F.R. § 1.1206(b)(1), enclosed you will find two copies of the *ex parte* letter from Larry Irving, Assistant Secretary for Communications and Information, Department of Commerce, to Chairman William E. Kennard in the above-referenced proceeding. The original was hand-delivered to Chairman Kennard and copies have been hand-delivered to each of the Commissioners.

Please direct any questions you may have regarding this filing to the undersigned. Thank you for your cooperation.

Respectfully submitted,

Kathy D. Smith
Acting Chief Counsel

Enclosures

cc: The Honorable William E. Kennard
The Honorable Harold Furchtgott-Roth
The Honorable Susan Ness
The Honorable Michael Powell
The Honorable Gloria Tristani

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UNITED STATES DEPARTMENT OF COMMERCE
The Assistant Secretary for Communications
and Information
Washington, D.C. 20230

The Honorable William E. Kennard
Chairman
Federal Communications Commission
Room 814
1919 M Street, N.W.
Washington, D.C. 20554

Re: Tariffing of Digital Subscriber Line Services, CC Docket Nos. 98-79,
98-103, 98-161, and 98-165

Bill
Dear Chairman Kennard:

As you prepare to issue a second decision in the digital subscriber line tariffing proceedings, I want to underscore the importance of taking into consideration the implications of your decision on all the industries involved in provision of these services.

As we strive to spur the growth of broadband networks, we must ensure that we do not retard the development of the Internet, which is creating economic growth throughout virtually all sectors of our nation's economy. The Internet has been the driving force in the surge of our nation's information technology industries, which have accounted for one-third of the real growth in the U.S. gross domestic product over the last three years. The U.S. online retail market is growing at a rate of more than 200 percent annually. From electronic commerce to e-mail, virtual universities to community networks, the Internet is a cornerstone of the new information economy. Access to the Internet has become a critical issue as increasing numbers of Americans seek to use this valuable means of communication. In the telecommunications realm, the unfettered growth and innovation of Internet telephony has created new technical opportunities for incumbents and competitors to offer traditional and related telephone services. This, in turn, has helped lower prices for consumers. Nevertheless, the Internet is still in its infancy.

The Administration has had a long-standing position on Internet regulation. As NTIA stated in a letter to Chairman Hundt in May 1996,¹ and reiterated in a letter to you several months

¹ Letter to FCC Chairman Reed Hundt from NTIA Administrator Larry Irving, recommending that the Commission not regulate firms that sell software enabling voice

ago,² the Commission's decision in the 1980s not to regulate Internet and other enhanced services was a wise choice that has benefitted both American consumers and business. We see no reason now for the Commission to reverse its correct choice of innovation over regulation.

Thus, NTIA believes that the issues raised in the tariffing proceedings do not require the Commission to undertake an exhaustive review of Internet policy issues. Any change in Internet policy will have enormous domestic and international repercussions.

The parties involved in these proceedings have also raised the issue of reciprocal compensation between local carriers handling Internet traffic. Prior to these proceedings, more than twenty State commissions had concluded that, under existing interconnection agreements, dial-up calls from end users to Internet service providers (ISPs) are local in nature. The State commissions therefore found that particular interconnection agreements require incumbent local exchange carriers (ILECs) to compensate competitive local exchange carriers (CLECs) for handling these calls that terminate via CLEC facilities. As NTIA noted in its letter to you on this issue last month, the States could reasonably have concluded that the parties intended that these calls be treated as local.³ The State commissions were within their authority to enforce interconnection contracts, applying the existing law at the time. Thus, NTIA believes that while the Commission may now decide to exercise jurisdiction over this Internet traffic, the Commission should not disturb the prior State commission decisions.

The jurisdictional issues involved in these proceedings highlight the important roles of both the States and the Commission. The Commission has the authority to allow the States to continue to exercise some jurisdiction over these services. But the Commission also has the responsibility to monitor the provision of these services and the impact on the Internet. National interests are at stake with respect to the Internet's role in the global economy and the increasing importance of electronic commerce.

Americans are looking to us to create the conditions in which competition will thrive, and they will receive the benefits of lower prices, more choices, and high-quality services. The

communications by Internet users (May 8, 1996) (ACTA Petition RM 8775).

² Letter to FCC Chairman William Kennard from NTIA Administrator Larry Irving, concerning the Commission's "Report to Congress on Universal Service under the Telecommunications Act of 1996" (April 9, 1998) (CC Docket No. 96-45).

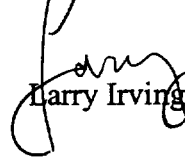
³ Letter to FCC Chairman William Kennard from NTIA Administrator Larry Irving, concerning tariffing of digital subscriber line services (October 27, 1998) (CC Docket Nos. 98-79, 98-103, 98-161, and 98-165).

The Honorable William E. Kennard
Page 3

Internet is helping us achieve these goals, and we should be extremely wary of interfering with its success.

Thank you for considering these views.

Sincerely,



Larry Irving

cc: Honorable Susan Ness
Honorable Harold W. Furchtgott-Roth
Honorable Michael K. Powell
Honorable Gloria Tristani